In re application of   :
Conkwright, et. al.   :   Group Art Unit: Technology Center
Serial No.: 09/759,640   :   Examiner: Unassigned
Filed: January 16, 2001   :
For: Privacy Compliant Multiple Dataset Correlation System

Honorable Assistant Commissioner for Patents
Washington, D.C. 20231

REQUEST FOR RECONSIDERATION OF PETITION TO MAKE SPECIAL UNDER 37 C.F.R. §1.102(d)

Sir:

In response to the Decision on Petition for Accelerated Examination Under M.P.E.P. §708.02(VIII), Applicants respectfully request that the Commissioner reconsider his decision in light of the arguments set forth below.

C O M M E N T S

Applicants thank the Examiner for his comments regarding the Applicants' Petition to Make Special. The Examiner dismissed Applicants' petition because "a similar statement, that the entirety of the independent claims are not taught or suggested by the reference, is presented for each of the references purported to be 'most closely related'." The Examiner explained that Applicants' petition "does not point out how the claimed subject matter is patentable over the references." Applicants believe the following should satisfy the Examiner's requirement and respectfully request that the above referenced patent application be advanced out of turn in accordance with 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII).

DISCUSSION OF THE REFERENCES

U.S. Patent No. 6,286,140, to Ivanyi ("the '140 patent"), is directed to a signal receiving device which, upon the occurrence of a pre-specified event, reads the data from each of the monitored devices embedded therein, including a real-time event clock, thereby recording the post-event operational state of the signal receiving device. The above-described data is stored in a database residing in the signal receiving device until such time as a central processing computer polls the signal receiving device to initiate a data transmission or data upload. Once received by the central computer, the information is stored in a central database, along with

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information regarding the demographics of the viewer, subscriber, or customer, as well as other data or information that may be compiled with viewer, subscriber, or customer consent or permission. The '140 patent suggests that data stored in the central database can be analyzed to determine viewer behavior or viewer responses to various programming and advertising subject matter, but does not teach a means for such analysis. The '140 patent further suggests that such analysis can facilitate assessment of the effectiveness of programs and advertising commercials that, thereafter, may be made available to advertisers, but does not teach or suggest a means for such analysis.

Applicants' invention is patentable over the '140 patent. Applicants' invention is generally directed to a market data acquisition system and method that correlates set-top box event data with content attributes and user demographic information to calculate content experiencing statistics. In one aspect of the invention, certain set-top box events may be invalidated based on past set-top box operator behavior. Set-top box data is correlated with content attributes and demographic information for a region in which the set-top box is located. Such correlations are drawn using techniques which reduce the effect of sampling error and sample bias and which increase correlation result dataset specificity. The correlations result in data indicating which content was experienced by one or more demographic groups, which can be used to determine the relative rating of such content. Another aspect of Applicants' invention is the determination of individual set-top box user characteristics. This can be especially useful when set-top box data is collected in a privacy-compliant manner, as is preferred in the Applicants' invention. A further aspect of the Applicants' invention is the determination of the effect of content attributes on content ratings. The '140 patent does not teach or suggest the claimed content attribute database or means for retrieving information from such a database. The Court of Appeals for the Federal Circuit has consistently held that "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." Lindemann Maschinenfabirk Gmbh v. American Hoist & Derrick, 221 USPQ 481, 485 (Fed. Cir. 1984). The '140 patent clearly fails to disclose structure positively recited and claimed in applicants' independent claims.

U.S. Patent No. 6,286,005, to Cannon ("the '005 patent"), teaches a method of storing and accessing television viewership information provided by a third party, in

which incoming data is converted into an unusual database file format. The '005 patent is directed to receiving, on a weekly basis, large quantities of data and converting such data into an appropriate format. Once in this form, the converted data can be moved from location to location; organized and analyzed in computer memory; filtered based on demographic criteria; and can facilitate retrieval of information for a sample group across multiple weeks.

Applicants' invention is patentable over the '005 patent. Applicants' invention is generally directed to a market data acquisition system and method that correlates set-top box event data with content attributes and user demographic information to calculate content experiencing statistics. The '005 patent does not teach or suggest the claimed content attribute database or means for retrieving content therefrom. The '005 patent clearly fails to disclose structure positively recited and claimed in applicants' independent claims.

U.S. Patent No. 6,029,176, to Cannon ("the '176 patent"), teaches a method and apparatus for quickly reviewing, manipulating, and analyzing large quantities of computer-based data relevant to television-viewing consumers. The '176 patent is directed to the analysis of data supplied by the A. C. Nielsen Company based on television viewing logs from specialized equipment attached to televisions in homes. The '176 patent teaches a method of converting the A. C. Nielsen Company data to a proprietary format, and filtering techniques that take advantage of the proprietary data format. The '176 patent also teaches the use of a graphical user interface to provide access to the data stored in the proprietary format.

Applicants' invention is patentable over the '176 patent. Applicants' invention is generally directed to a market data acquisition system that correlates set-top box event data with content attributes and user demographic information to calculate content experiencing statistics. The '176 patent does not teach or suggest the claimed content attribute database or means for retrieving content therefrom. The '176 patent clearly fails to disclose structure positively recited and claimed in applicants' independent claims.

U.S. Patent No. 6,289,514, to Link ("the '514 patent"), describes a system and method for identifying television programming, identifying and capturing consumer television program viewership behavior, and providing real-time reporting of that information to interested parties, while also providing verification of actual delivery

of advertising and/or program content. The '514 patent teaches that it is important to establish a database of "cluster codes", or mathematical groupings of the viewing population such that there is a demographic segmentation of the viewing population based on socioeconomic factors. The '514 patent teaches that the cluster code database should also include a merger of possible clustering codes with customers' actual addresses from a cable customer database and cross-referencing that to a set top box ID data base. STB events are aggregated by time, channel, cluster code and head end. The '514 patent teaches that reports consisting of household ratings can be generated from the aggregated event data in near-real time.

Applicants' invention is patentable over the '514 patent. Applicants' invention is generally directed to a market data acquisition system that correlates set-top box event data with content attributes and user demographic information to calculate content experiencing statistics. The '514 patent does not teach or suggest the claimed content attribute database, nor does the '514 patent teach or suggest the claimed means for retrieving content attributes therefrom. The Court of Appeals for the Federal Circuit has consistently held that "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." Lindemann Maschinenfabirk Gmbh v. American Hoist & Derrick, 221 USPQ 481, 485 (Fed. Cir. 1984). The '514 patent clearly fails to disclose structure positively recited and claimed in applicants' independent claims.

U.S. Patent No. 6,020,883, to Herz, et al. ("the '883 patent") teaches a system and method for calculating which program characteristics are preferred by a customer to give a measure of how well that customer should like a given program. The '883 patent then creates custom "virtual [television] channels" based on these calculations. The virtual channels include a series of video or data programming which provide the grates satisfaction to each customer. Feedback paths are also provided so that the customer's profiles and/or profiles of video programs or other data may be modified to reflect actual usage.

Applicants' invention is patentable over the '883 patent. The '883 patent does not teach or suggest Applicants' invention. Applicants' invention is generally directed to a market data acquisition system that correlates set-top box event data with content attributes and user demographic information to calculate content experiencing statistics. The '883 patent does not teach or suggest the claimed market data acquisition system, including a means for retrieving event and embedded content data

from a plurality of set-top boxes. It is well-established that, in order to show obviousness, all limitations in the claim must be taught or suggested by the prior art. In Re Boyka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); MPEP § 2143.03. It is error to ignore specific limitations distinguishing over the references. In Re Boe, 184 U.S.P.Q. 38, 505 F.2d 1297 (C.C.P.A. 1974); In Re Saether, 181 U.S.P.Q. 36, 492 F.2d 849 (C.C.P.A. 1974); In Re Glass, 176 U.S.P.Q. 489, 472 F.2d 1388 (C.C.P.A. 1973). The '883 patent clearly fails to disclose all of the limitations in applicants' claims, thus applicants' invention is patentable over the '883 patent.

U.S. Patent No. 6,088,722, to Herz, et al. ("the '722 patent") teaches a system and method for calculating which program characteristics are preferred by a customer to give a measure of how well that customer should like a given program, and provides a feedback mechanism to determine whether the customer actually liked the program. The '722 patent teaches that the feedback mechanism can reduce the data downloaded to the customer's set top terminal.

The '722 patent does not teach or suggest Applicants' invention. Applicants' invention is generally directed to a market data acquisition system that correlates set-top box event data with content attributes and user demographic information to calculate content experiencing statistics. The '722 patent does not teach or suggest the claimed market data acquisition system, including a means for retrieving event and embedded content data from a plurality of set-top boxes. The '722 patent clearly fails to disclose all of the limitations in applicants' claims, thus applicants' invention is patentable over the '722 patent.

U.S. Patent No. 6,298,348, to Eldering ("the '348 patent") teaches a system which learns the buying habits of consumers based on data received from a point of purchase, such as a register in a grocery store. The '348 patent teaches that such point of purchase data can be used to develop consumer demographic profiles using a vector-based representation of the probability that a consumer falls within a certain demographic category such as an age group, gender, household size, or income range. The '348 patent also teaches that a consumer's product preferences can also be discerned from the learned buying habits to determine which products a consumer is likely to purchase in the future. The demographic profile and product preferences are updated with each purchase. The updating process uses a weighting factor which determines the importance of the purchased product with respect to all of the products purchased in a particular product category. The '348 patent also teaches that print

advertisements can then be targeted to a consumer based on the consumer's demographic profile and product preferences.

Applicants' invention is patentable over the '348 patent. Applicants' invention is generally directed to a market data acquisition system that correlates set-top box event data with content attributes and user demographic information to calculate content experiencing statistics. The '348 patent does not teach or suggest the claimed market data acquisition system, including a means for retrieving event and embedded content data from a plurality of set-top boxes. The '348 patent does not disclose all the limitations in Applicants' claims, thus Applicants' invention is patentable over the '348 patent.

U.S. Patent No. 6,216,129, to Eldering ("the '129 patent") teaches an advertisement selection system in which vectors describing an actual or hypothetical market for a product or desired viewing audience can be determined. A consumer characterization vector is correlated with an ad characterization vector to determine the suitability of the advertisement to a specific consumer. The consumer characterization vector describes statistical information regarding the demographics and product purchase preferences of a consumer, and is developed from previous purchases or viewing habits.

Applicants' invention is patentable over the '129 patent. Applicants' invention is generally directed to a market data acquisition system that correlates set-top box event data with content attributes and user demographic information to calculate content experiencing statistics. The '129 patent does not teach or suggest the claimed market data acquisition system, including a means for retrieving event and embedded content data from a plurality of set-top boxes. The '129 patent does not disclose all the limitations in Applicants' claims, thus Applicants' invention is patentable over the '129 patent.

U.S. Patent No. 5,872,588, to Aras, et al. ("the '588 patent"), teaches a method and apparatus for content coding of audio-visual materials. An audio-video material distribution system is described in which content coded audio-visual material streams are supplied to home stations within subscriber homes via a local distribution network. The home stations decode, collect, and process the content codes as they are received. In one aspect of the '588 patent, the content codes are used to control aspects of the home station, thereby providing management of an upstream channel

between the home stations and the video distribution node. The home stations also utilize the decoded content codes to collect information on the audio-visual material streams selected by a subscriber and to record information in which audio-visual material has been presented to the subscriber. The collected content codes are then sent to collection centers for processing.

Applicants' invention is patentable over the '588 patent. Applicants' invention is generally directed to a market data acquisition system that correlates set-top box event data with content attributes and user demographic information to calculate content experiencing statistics. The '588 patent does not teach or suggest the claimed means for correlating demographic information to data indicating which content was experienced through a plurality of set-top boxes. The '588 patent does not disclose all the limitations in Applicants' claims, thus Applicants' invention is patentable over the '588 patent.

U.S. Patent Application Publication No.: 2001/0049620, to Blasko ("the '620 publication"), teaches a system and method for transaction profiling in a privacy-protected manner based on transaction data, wherein the transaction generally refers to an intentional action by a user. The '620 publication teaches that transaction data relates to programming and advertisements watched by the user over a predetermined period of time. Transaction profile vectors are computed based on the transaction data, wherein the transaction profile vector may include demographic attributes such as age, household size, income level of the user, or preference attributes indicating probable products and services preferred by the user. The '620 publication teaches that the transaction profile vector preferably takes place local to the transaction.

Applicants' invention is patentable over the '620 publication. Applicants' invention is generally directed to a market data acquisition system that correlates set-top box event data with content attributes and user demographic information to calculate content experiencing statistics. Applicants believe that, because of the filing and publication dates of the '620 publication, the '620 publication is not valid prior art to the present application under any section of 35 U.S.C. §102..

U.S. Patent Publication No.: 2001/0021994, to Nash ("the '994 publication"), teaches a television system which enables advertisements to be targeted at viewers who have a particular interest in the products or services being promoted by the advertisement which comprises reviews from a plurality of reviewers commissioned
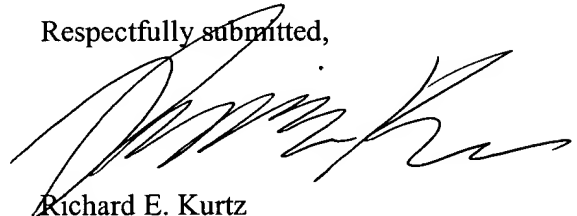
by an advertiser and alternatively or additionally by independent reviewers. The reviews are encoded into a data channel associated with the advertisement. A product rating decoder is provided in a receiver that decodes the data in the data channel and selects advertisements for display based on the data and a user profile generated either explicitly by the user entering preferences via a user interface or implicitly by monitoring the type of program selected for viewing by the user.

Applicants' invention is patentable over the '994 publication. Applicants' invention is generally directed to a market data acquisition system that correlates set-top box event data with content attributes and user demographic information to calculate content experiencing statistics. Applicants believe that, because of the filing and publication dates of the '994 publication, the '994 publication is not valid prior art to the present application under any section of 35 U.S.C. §102.

C O N C L U S I O N

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite the prosecution. You are hereby authorized to charge or credit any deficiency or overpayment to our Deposit Account No. 50-0653.

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